

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK



-PS/CD-O-

HERALD A. JONES,

Petitioner,

-v-

13-CV-0206C  
ORDER

ERIC H. HOLDER, Attorney General  
of the United States, JANET  
NAPOLITANO, Secretary of Security  
U.S. Department of Head of Homeland  
Security, MICHAEL PHILIPS, Field  
Office Director for Detention and  
Removal, Buffalo Field Office,  
Bureau of Immigration and Customs  
Enforcement, DEPARTMENT OF HOMELAND  
SECURITY, and TODD TRYON, Facility  
Director, Buffalo Federal Detention  
Facility,

Respondents.

Petitioner Herald A. Jones, who is currently detained at the Buffalo Federal Detention Facility pursuant to a final order of removal, seeks relief pursuant to 28 U.S.C. § 2241 as more fully set forth in the petition. Petitioner has paid the \$ 5.00 filing fee and has requested appointment of counsel.

There is insufficient information before the Court at this time to make the necessary assessment of plaintiff's claims under the standards of 18 U.S.C.A. § 3006A regarding appointment of counsel, as issue has yet to be joined. Plaintiff's motion for appointment of counsel is denied without prejudice at this time.

IT HEREBY IS ORDERED as follows:

1. Petitioner's request for appointment of counsel is denied without prejudice as premature.

2. Within **45 days** of the service of this Order, respondent shall file and serve an **answer** to the application with the Clerk of Court which shall respond to the allegations of the petition. Alternatively, in the appropriate case, respondent may file a motion to dismiss the petition, accompanied by pertinent exhibits which demonstrate that an answer to the petition is unnecessary, by no later than **45 days** from service of this Order.

Respondent also shall file and serve by the above date a **memorandum of law** with the Clerk of Court addressing each of the issues raised in the petition and including citations of relevant supporting authority. Respondent is directed to accompany all citations to sections of the Immigration and Naturalization Act with reference to the appropriate sections of 8 U.S.C.

Petitioner shall have **25 days** upon receipt of the answer to file a written response to the answer and memorandum of law (or motion to dismiss).

3. The Clerk of Court shall serve a copy of the petition, together with a copy of this Order, by certified mail, upon the following:

- Facilities Director, Buffalo Federal Detention Center, 4250 Federal Drive, Batavia, New York 14020;

- Office of General Counsel, Department of Homeland Security, Washington, D.C. 20528;

- Attorney General of the United States, Main Justice Building, 10th and Constitution Avenues N.W., Washington, D.C. 20530; and

- United States Attorney for the Western District of New York, Civil Division, 138 Delaware Avenue, Buffalo, New York 14202.

4. The Clerk of the Court is directed to conform the caption of this case to this Order to indicate the correct spelling of defendant Napolitano's name.

**THE PETITIONER MUST FORWARD A COPY OF ALL FUTURE PAPERS AND CORRESPONDENCE TO THE ATTORNEY APPEARING FOR THE RESPONDENTS.**

**SO ORDERED.**

S/ Michael A. Telesca

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MICHAEL A. TELESKA  
United States District Judge

Dated: March 28, 2013  
Rochester, New York